Virginia Water Supply Planning Advisory Committee

Tuesday, August 31, 2010
Glen Allen, VA

Meeting Minutes

Committee Members Present
Rick Linker, Judy Dunscomb, John Kauffman, Bob White, Bill Cox, Chuck Murray, Mike Lawless, Bill Pennell, Beate Wright, Larry Dame, John O'Dell, Greg Garman, Denise Harris, John Carlock, Tom Roberts, Rob McClintock, Tom Botkins, Mark Mansfield, John Staelin, Wes Kleene, Sam Austin for Mark Bennett.

Committee Members Absent
Kevin Byrd, Katie Frazier, Art Petrini

DEQ Staff Present
Ellen Gilinsky, Scott Kudlas, Jeff Reynolds, Cindy Berndt, Angela Neilan, Tammy Stephenson, Robert Burgholzer, Valerie Rourke.

Others Present
Mark Williams, Andrea Wortzel, Scott Smith, John Lain, Traci Goldberg, Steve Edgemon, David Barnard, Mark Davis

Facilitator Angela Neilan opened the meeting and introduced Ellen Gilinsky, Director of the Water Division for VA DEQ who welcomed everyone to the meeting and gave an overview of the meeting agenda. While DEQ hosted this meeting she suggested that future meeting locations and hosts could rotate.

Committee members introduced themselves and explained who they represented. Tammy Stephenson was introduced as the Coordinator for the Committee and main point of contact for committee communications. She indicated that all presentations given will be part of the official minutes of the meeting and will be placed on the DEQ website at http://www.deq.virginia.gov/watersupplyplanning.

Cindy Berndt, DEQ Director of Regulatory Affairs, explained that this Committee is a public body by the Freedom of Information Act (FOIA) definition. Notices of meetings, records, and meeting minutes as required will be handled by DEQ, All meetings will be open to the public, will be publicly noticed, and anyone can video or tape a meeting as long as the meeting is not disrupted. As a public body, any sub-committees of the committee are also public bodies and are subject to the same rules. Again, DEQ will handle the notices and minutes, but Ms. Berndt wanted the committee members to be aware that they need to remember any and all records, including emails, are subject to FOIA. Additionally, she cautioned committee members on emailing in a fashion that could be considered a 'chat,' as this is against FOIA. One on one communication is accepted, but if more than two committee members are involved, it could be perceived as an unnoticed meeting, which is not acceptable. She suggested committee members

refrain from "Reply to All" and leave group communication to DEQ. If more than two committee members are together, it is considered a meeting if committee issues are discussed (does not include social settings where committee business is not discussed). Ms. Berndt asked members to remain cognizant of their role as representatives of a public body and the need for public notice and public record of all proceedings. If there are any questions in the future, Ms. Berndt is available to help the committee.

Ms. Neilan outlined committee ground rules. The major goal is to develop a consensus where, each member may not agree with every detail, but all members can live with the final outcome. The consensus building process results in give and take. By legislation, the committee will meet at least twice a year until December 2012 for a minimum of six meetings, this one being one of those meetings. All were agreeable to the 10am to 3pm time frame for meetings. Ms. Neilan explained that every committee member has a voice that should be heard. She asked committee members to participate fully, be respectful of each other, and not talk on top of each other. If any guest has something to offer, they can be invited by the committee to speak from the "Open Chair" at any time during the meeting. Additionally, there will be an opportunity for public comment at the end of each meeting. Anyone wishing to make public comment must sign up to speak in advance.

Scott Kudlas, Director, Office of Surface and Ground Water Supply Planning for VA DEQ gave a presentation on the responsibilities of the Committee. He emphasized that the bill establishing the committee focuses on the development of the State Water Resources Plan, and the committee is charged with advising DEQ in the process. He added that water supply does not mean just public drinking water, but should be more broadly interpreted as water supply sufficient to meet all statutorily protected beneficial uses. Mr. Kudlas reminded the committee that the legislation states the committee will meet no less than twice a year until it concludes in December 2012. He encouraged strong participation and attendance by committee members to ensure effect use of this time. It was decided that some method of electronic sharing would be established so the committee could work and comment individually on issues.

The regulation details eight issues for the committee to examine and acknowledges that these issues represent areas where a consensus was not reached in the development of the water supply planning regulation.

- Issues to examine are:

- Process for incorporating local plans into a state plan and minimizing conflict among them

- Methodologies for calculating demand

- Funding for necessary data

- Effectiveness of regionalization

- Impacts of consumptive use and reuse

- Use of alternative sources

- Environmental flows

- Role of the State Water Control Board

Mr. Kudlas proposed the following Mission Statement for the committee:

Advise DEQ in the development of policies and programs to ensure that the Commonwealth's water resources are utilized equitably, efficiently, and sustainably for the benefit of all Virginians.

There was some discussion on the draft mission statement regarding the need to address the process nature of planning and the need to highlight the focus on the State Plan. Staff indicated that they would consider these comments and provide a revised statement at the next meeting

Mr. Kudlas also discussed why there is a water supply planning regulation in place. He stated the following reasons:

- Specific content of State Plan not defined in statute or regulation

- State Plan needs to be meaningful—have "teeth"

- Fear that the regulated community may lose something they already have or may need in the future

- Need to move beyond the status quo

Mr. Kudlas added that during the development of the water supply planning regulation, the TAC was clear that permitting and planning should be kept separate, but that the committee may have the desire to reconsider this position.

He then asked committee members to explain what their expectations of the committee are. A summary of expectations and hopes for the committee work follows:

- More direction from the state as localities are developing water projects;

- State to take more ownership in regional solutions, act as a referee;

- Once a locality/region has gone through the water supply planning process, the state should become an advocate in the federal or other regulatory process;

- Link permitting and planning;

- Conflict Resolution

- Political versus hydro-geologic boundaries;

- Funding to implement the planning process;

- Attention to unintended consequences;

- Define process for non-public water users (industry, etc.) to ensure inclusion in local/regional water supply plans and ultimately the State Water Resources Plan;

- Improve the process, avoid the status quo;

- Assist DEQ;

- Recognize diverse interests of committee members as process progresses;

- Find optimal solution sets - everyone is a winner;

- Understanding of terminology;

- Sustainability of outcomes;

- Encourage and support water reuse;

- Ecological flows in the planning process;

- Define the process for development of the State Water Resources Plan;

- Understand information gaps;

- Water demand projections for all aspects/water users;

- State Plan should be living document;

- Instream and offstream uses should be identified and conflicts resolved before the State Plan is completed;

- Public health;

- Identify common ground, understand diverse perspectives;

- Ensure that the time and money spent on the local/regional water supply plans are put to good use; DEQ should not use water supply plans against them;

- Sustainability of water resources;

- Consumptive use and reuse;

- Instream flows recognized and established through an appropriate process;

- How conservation fits in with water supply planning;

- Make assumptions from plans, develop recommendations for dealing with them;

- Divide technical and political issues;

- Find ways to promote synergy of all planning efforts that a `locality or region does (e.g., economic development, infrastructure, etc.);

- State agencies need to speak to each other;

- Remember self-supplied users;

- Aquifer storage and recovery;

- Desalination;

- Economic development perspective in water resource/environmental planning;

- Encourage discussion with economic development staff and water suppliers;

- All players (economic development, permitting, etc.) need to understand the rules;

- Take scientific look at planning; permissive, not restrictive;

- Economics of water - pricing;

- More discussion of water resources benchmarks.

Ms. Neilan led a summary discussion of the expectations and repeated themes.

Mr. Kudlas gave a presentation on the history of Virginia's Water Supply Planning. Following the 1999-2002 drought event, a Technical Advisory Committee (TAC) was formed to assist DEQ and the State Water Commission to identify appropriate roles and responsibilities of state and local governments to meet future water demands in an environmentally sound manner. This TAC met four times and reported to the General Assembly in January 2003. The report concluded that the state should be the lead for water policy and planning, but the role of localities must be recognized; localities should develop plans according to criteria established by DEQ. Regional plans should be encouraged and the TAC was charged with continuing development of further recommendations. These consensus principles became Senate Bill 1221 (2003) passed by the General Assembly in 2003. This legislation directed DEQ to develop regulatory language for local and regional plans and to continue to work with the WP_TAC. A number of individuals who participated on this TAC are now members of this Committee.

After a year of work, there was consensus within the TAC of what, conceptually, should be included in water supply plans. The TAC requested another year to fine tune the criteria that should be required in a local or regional plan. They also generated an appendix of unresolved issues, many relating to what the State Water Resources Plan should include.

Recommendations from the second year of work by the TAC resulted in the Regulation 9 VAC 25-780. Local and Regional Water Supply Planning effective November 2, 2005. Mr. Kudlas reviewed the list of unresolved issues from the earlier TAC efforts and pointed out some similarities to the issues the legislature has asked this committee to examine. The list of issues from previous efforts follows:

- By what criteria or guidelines should a plan be evaluated?

- What is the role of VDH and other agencies in approving local plans? Agencies besides VDH?

- Scalability questions among localities?

- What are the benefits of an "approved" plan? Should they be outlined in the regulation?

- What should happen if a locality refuses to prepare a plan?

- Is conflict resolution part of the regulation? Is this where it should go?

- Is triggering mechanism for plan preparation addressed in the draft in a manner the TAC supports (issue: when does one have to prepare a plan?)?

- Does the projected water use address the planning horizon (issue: think broadly about how to do things in a 50-year window)?

- Should plans be developed at all?

- Who is going to pay for this planning?

- How will source water protection be addressed?

- What is the interrelationship between local plans and the state plan?

- What should be the relationship between this planning and state and federal permitting?

- How should we address Inter-Basin Transfer issues?

- How should incentives be addressed? Can they be addressed in the regulation? If so How?

- Should source water protection be included in the regulations? Under what circumstances?

- Where are unpermitted (grandfathered) withdrawals addressed in the local or state plan?

- How do we address protection of existing water rights?

Ms. Neilan distributed note cards and asked each committee member to put any water supply planning effort or project he or she has worked on, list their names, and the year(s) of the projects. This time line served as the basis for addressing and recognizing committee members' involvement in prior water supply planning efforts and projects. It also helped members identify Barriers and Opportunities to Water Supply Planning, a discussion which followed.

Mr. Kudlas gave a presentation on State Water Supply Planning in Virginia. Water supply planning was occurring in Virginia as early as 1927. From 1927 to 1962, the early plans looked at gage data and water availability, mainly concentrating on surface water. Plans were developed by major river basin and issued every five to eight years. This type of water supply planning was a routine state function directly linked to developing the Virginia economy through resource utilization.

Since the 1960s, water supply planning ceased to be a routine state function and became an ad-hoc activity initiated after a significant drought event. The Water Supply Plans developed from1968-1972, expanded the focus beyond water availability and for the first time included an inventory of local use. It took five years to complete the plans for each river basin. In 1985-1988 plans were developed that included the first analysis of safe

yield and local demand. It took four years to complete basin plans for each major river basin. The common elements of previous plans include water availability; local inventory of use; planning at major river basin scale.

There was much discussion of barriers and opportunities. The group discussed why these earlier plans failed, what was learned from the historic process and what opportunities were presented for this committee from previous efforts in Water Supply Planning

- Demand Centers created to determine water needs;

- We have new technology which we did not have before;

- Relationships with localities beyond PSA's;

- Silent about in-stream flow and environmental issues;

- We now have "Flow Ecology Models";

- Heavy on Data- need to go beyond collection of data-Collect relevant data and integrate into planning process not just product/report that sits on shelf;

- Overly concerned with population data;

- Relate (population and other data) beyond just the science to be relevant for policy makers and planning process;

- Water Supply Plan should not be static Plan but rather a living document;

- Resources for Planning- Decision Support Systems;

- Smaller localities might not be able to take advantage of sophisticated systems so bring them up to speed;

- Involve the Planning District Commissions in the state plan. Turf issues among localities can be resolved at the PDC level. Bring smaller localities together. There are budget constraints and pressures that are dealt with all the time through PDC's;

- Prior plans were related to drought. Public awareness and political will increased;

- Plans related to increasing demand, and based on faulty projections;

- Need a plan that serves multiple purposes including health and environment;

- For maximum beneficial use;

- Data Bases-VDH and DEQ (Examine and combine);

- Grandfathered users-90% of surface water withdrawals are not permitted-DEQ now has information on the maximum withdrawal capacity of 75% of these-Need amendment to the Permit Process to deal with all these "grandfathered" uses.

- Can't view groundwater and surface water separately;

- Water is sold as a commodity (International Paper and who gets their groundwater example);

- Water Quality and Quantity must both be viewed together, not separately as before;

- Data origin-endless loop-DEQ asks localities for data and then localities ask DEQ to verify;

- Need to deal with differing agendas among current committee members-find common ground and move forward without stonewalling-find the common ground;

- Start compiling the regional plans to determine water needs and then use this to develop the political will and public attention--political will gets stronger as data are compiled from Regional Plans;

- Problems are linked so solutions must be linked-cascading solutions built into the planning process ;

- Due to progress in Computing Technology, we can do advanced modeling;

- Upstream changes/withdrawals have effects on downstream-can be modeled;

- Models can be used to include:
    Alternatives generated and analyzed,
    Storage,
    Re-Use,
    Link Quality and Quantity;

- Economics and Uncertainty still have to be included but move beyond overestimate of demand as the only margin of safety;

- Biggest unknown is stream flow;

- Drought of record-and beyond—there will always be a worse drought of record;

- Suggest that we work with ODU's Virginia Modeling and Simulation Center for peer review and to link and fill gaps;

- For next meeting, DEQ get information on Surface Withdrawals;

- Increase the pie of available water through re-use, additional storage, etc;

- Indirect potable re-use loops puts water back into water supply (Occoquan);

- The cost of water is important-affects conservation and use;

- Many examples of protecting in-stream flows-The Nature Conservancy involved with Potomac River-emerging technologies for surface water protection;

Mr. Kudlas reviewed the elements that are already included in the statute to address what should be included in a State Water Resources Plan. He explained how SB1221 changed the statute, making the planning process continuous, adaptive, and based on locally-derived data. He indicated that this seems to address what the State Plan should include and that the Committee will discuss what additional things should be included.

Mr. Kudlas introduced Robert Burgholzer, DEQ's Surface Water Modeler. Mr. Burgholzer gave a presentation on the model that has been developed, current efforts, and anticipated future work to incorporate information from the local and regional water supply plans and will assist with the identification of conflicts for the State Water Resources Plan. Mr. Burgholzer highlighted what the model can do, what it cannot do at present, and how the model will assists with permitting. Mr. McClintock suggested DEQ look at ODU's VMASC (Modeling and Simulation Center) to see if they could help fill the data gaps. Ms. Neilan asked who was interested in modeling and all committee members raised their hands. The Committee agreed a live modeling demonstration should be provided at the next meeting for all members.

There was no public comment.

A draft agenda and proposed work plan will be developed by DEQ prior to the next meeting.

The next meeting will be in December. Ms. Stephenson will send another notice via doodle.com. The location has yet to be determined, but potential hosts for future meetings were identified: VCU Rice Center, Hampton Roads Planning District Commission, Mission H20, Fairfax Water, and Loudoun Water.

The committee will be working on the mission and issues documents electronically. Ms. Stephenson will coordinate this effort. Additionally, there will be a page on DEQ's water supply planning website for public viewing of documents and other information relative to this committee.

Mr. Kudlas adjourned the meeting at 3:05 p.m.

Respectfully submitted by Tammy Stephenson, Committee Coordinator